

SEC. ____ . MODIFICATIONS TO INCOME EXCLUSION FOR CONSERVATION SUBSIDIES.

(a) IN GENERAL.—Subsection (a) of section 136 of the Internal Revenue Code of 1986 is amended—

(1) by striking “any subsidy provided” and inserting “any subsidy—
“(1) provided”;

(2) by striking the period at the end and inserting a comma, and

(3) by adding at the end the following new paragraphs:

“(2) provided (directly or indirectly) by a public utility to a customer, or by a State or local government to a resident of such State or locality, for the purchase or installation of any water conservation or efficiency measure, or

“(3) provided (directly or indirectly) by a storm water management provider to a customer, or by a State or local government to a resident of such State or locality, for the purchase or installation of any storm water management measure.”.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION OF WATER CONSERVATION OR EFFICIENCY MEASURE AND STORM WATER MANAGEMENT MEASURE.—Section 136(c) of the Internal Revenue Code of 1986 is amended—

(A) by striking “ENERGY CONSERVATION MEASURE” in the heading thereof and inserting “DEFINITIONS”;

(B) by striking “IN GENERAL” in the heading of paragraph (1) and inserting “ENERGY CONSERVATION MEASURE”;

(C) by redesignating paragraph (2) as paragraph (4) and by inserting after paragraph (1) the following:

“(2) WATER CONSERVATION OR EFFICIENCY MEASURE.—For purposes of this section, the term ‘water conservation or efficiency measure’ means any evaluation of water use, or any installation or modification of property, the primary purpose of which is to reduce consumption of water or to improve the management of water demand with respect to one or more dwelling units.

“(3) STORM WATER MANAGEMENT MEASURE.—For purposes of this section, the term ‘storm water management measure’ means any installation or modification of property primarily designed to reduce or manage amounts of storm water with respect to one or more dwelling units.”.

(2) DEFINITION OF PUBLIC UTILITY.—Section 136(c)(4) of such Code (as redesignated by paragraph (1)(C)) is amended by striking subparagraph (B) and inserting the following:

“(B) PUBLIC UTILITY.—The term ‘public utility’ means a person engaged in the sale of electricity, natural gas, or water to residential, commercial, or industrial customers for use by such customers.

“(C) STORM WATER MANAGEMENT PROVIDER.—The term ‘storm water management provider’ means a person engaged in the provision of storm water management measures to the public.

“(D) PERSON.—For purposes of subparagraphs (B) and (C), the term ‘person’ includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.”.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 136 of such Code is amended—

(i) by inserting “AND WATER” after “ENERGY”; and

(ii) by striking “PROVIDED BY PUBLIC UTILITIES”.

(B) The item relating to section 136 in the table of sections of part III of subchapter B of chapter 1 of such Code is amended—

(i) by inserting “and water” after “energy”; and

(ii) by striking “provided by public utilities”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 2021.

(d) NO INFERENCE.—Nothing in this Act or the amendments made by this Act shall be construed to create any inference with respect to the proper tax treatment of any subsidy received directly or indirectly from a public utility, a storm water management provider, or a State or local government for any water conservation measure or storm water management measure before January 1, 2022.

SA 2176. Mr. CARDIN (for himself, Mr. PADILLA, and Mr. WARNOCK) submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, lines 10 and 11, strike “PILOT”.

On page 35, line 14, strike “pilot”.

On page 35, line 19, strike “pilot”.

Strike section 11509 and insert the following:

SEC. 11509. RECONNECTING COMMUNITIES PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ANTI-DISPLACEMENT POLICY.—The term “anti-displacement policy” means a policy that limits the displacement of low-income, disadvantaged, and underserved communities from neighborhoods due to new investments in housing, businesses, and infrastructure.

(2) AREA OF PERSISTENT POVERTY.—The term “area of persistent poverty” means—

(A) any county that has had 20 percent or more of the population of the county living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses and the most recent Small Area Income and Poverty Estimates as estimated by the Bureau of the Census;

(B) any census tract with a poverty rate of at least 20 percent, as measured by the most recent 5-year data series available from the American Community Survey of the Bureau of the Census for all States and Puerto Rico; or

(C) any other territory of the United States that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990, 2000, and 2010 decennial censuses, or equivalent data, of the Bureau of the Census.

(3) COMMUNITY LAND TRUST.—The term “community land trust” means a nonprofit organization established or with the responsibility, as applicable—

(A) to develop the real estate created by the removal or capping of an eligible facility; and

(B) to carry out anti-displacement or community development strategies, including—

(i) affordable housing preservation and development;

(ii) homeownership and property improvement programs;

(iii) the development or rehabilitation of park space or recreation facilities; and

(iv) community revitalization and economic development projects.

(4) ELIGIBLE FACILITY.—

(A) IN GENERAL.—The term “eligible facility” means a highway or other transpor-

tation facility that creates a barrier to community connectivity, including barriers to mobility, access, or economic development, due to high speeds, grade separations, or other design factors.

(B) INCLUSIONS.—The term “eligible facility” may include—

(i) a limited access highway;

(ii) a railway;

(iii) a viaduct;

(iv) a principal arterial facility; or

(v) any other transportation facility for which the high speeds, grade separation, or other design factors create an obstacle to connectivity.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a reconnecting communities program under which an eligible entity may apply for funding, in order to identify, remove, replace, retrofit, mitigate, or remediate the effects from eligible facilities and restore or improve community connectivity, mobility, and access in disadvantaged and underserved communities—

(A) to study the feasibility and impacts of removing, retrofitting, mitigating, or remediating the effects on community connectivity from an existing eligible facility;

(B) to conduct planning activities, including preliminary engineering and final design activities, for a project to remove, retrofit, mitigate, or remediate the effects on community connectivity from an existing eligible facility; and

(C) to conduct construction activities necessary to carry out a project to remove, retrofit, mitigate, or remediate the effects on community connectivity from an existing eligible facility.

(2) FOCUS.—The Secretary shall ensure that any activities carried out under this section—

(A) focus on improvements that will benefit the populations impacted by or previously displaced by the eligible facility; and

(B) emphasize equity by garnering community engagement, avoiding future displacement, and ensuring local participation in the planning process.

(c) PLANNING GRANTS.—

(1) ELIGIBLE ENTITIES.—

(A) IN GENERAL.—The Secretary may award a grant (referred to in this section as a “planning grant”) to carry out planning activities described in paragraph (2) to—

(i) a State;

(ii) a unit of local government;

(iii) a Tribal government;

(iv) a territory;

(v) a metropolitan planning organization;

(vi) a transit agency;

(vii) a special purpose district with a transportation function; and

(viii) a group of entities described in this subparagraph.

(B) PARTNERSHIPS.—An eligible entity may enter into an agreement with the following entities to carry out the eligible activities under this subsection:

(i) A nonprofit organization.

(ii) An institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), including minority serving institutions and historically Black colleges and universities (which shall have the meaning given the term “Predominantly Black institution” as defined in section 371(c) of the Higher Education Act of 1965 (20 U.S.C. 1067q(c))).

(2) ELIGIBLE ACTIVITIES DESCRIBED.—The planning activities referred to in paragraph (1) are—

(A) planning studies to evaluate the feasibility of removing, retrofitting, mitigating, or remediating an existing eligible facility

to restore community connectivity, including evaluations of—

(i) current traffic patterns on the eligible facility proposed for removal, retrofit, mitigation, or remediation and the surrounding street network;

(ii) the capacity of existing transportation networks to maintain mobility needs;

(iii) an analysis of alternative roadway designs or other uses for the right-of-way of the eligible facility, including an analysis of whether the available right-of-way would suffice to create an alternative roadway design;

(iv) the effect of the removal, retrofit, mitigation, or remediation of the eligible facility on the mobility of freight and people;

(v) the effect of the removal, retrofit, mitigation, or remediation of the eligible facility on the safety of the traveling public;

(vi) the cost to remove, retrofit, mitigate, or remediate the eligible facility—

(I) to restore community connectivity; and

(II) to convert the eligible facility to a roadway design or use that increases safety, mobility, and access for all users, compared to any expected costs for necessary maintenance or reconstruction of the eligible facility;

(vii) the anticipated economic impact of removing, retrofitting, mitigating, or remediating and converting the eligible facility and any economic development opportunities that would be created by removing, retrofitting, mitigating, or remediating and converting the eligible facility;

(viii) the environmental impacts of retaining or reconstructing the eligible facility and the anticipated effect of the proposed alternative use or roadway design; and

(ix) the community impacts and equity analyses of retaining or reconstructing the eligible facility on the surrounding communities, including—

(I) the demographic breakdown of the impacted community by race and socioeconomic status; and

(II) the displacement or disconnection that occurred within the community as a result of the existing facility;

(B) public engagement activities to provide opportunities for public input into a plan to remove, replace, retrofit, mitigate, or remediate the effects from an eligible facility, including—

(i) building organizational or community capacity to, and educating community members on how to, engage in and contribute to eligible planning activities described in this paragraph;

(ii) identifying community needs and desires for community improvements and developing community-driven solutions in carrying out eligible planning activities described in this paragraph;

(iii) conducting assessments of equity, mobility and access, environmental justice, affordability, economic opportunity, health outcomes, and other local goals to be used in carrying out eligible planning activities described in this paragraph; and

(iv) forming a community advisory board in accordance with subsection (d)(7);

(C) other transportation planning activities required in advance of a project to remove, retrofit, mitigate, or remediate an existing eligible facility to restore community connectivity, as determined by the Secretary;

(D) evaluating land use and zoning changes necessary to improve equity and maximize transit-oriented development in connection with a project eligible for a capital construction grant; and

(E) establishment of anti-displacement and equitable neighborhood revitalization strategies in connection with a project eligible for a capital construction grant, including es-

tablishment of a community land trust for land acquisition, land banking, and equitable transit-oriented development.

(3) TECHNICAL ASSISTANCE PROGRAM.—

(A) IN GENERAL.—The Secretary may provide technical assistance described in subparagraph (B) to an eligible entity described in paragraph (1).

(B) TECHNICAL ASSISTANCE DESCRIBED.—The technical assistance referred to in subparagraph (A) is technical assistance in building organizational or community capacity—

(i) to engage in transportation planning; and

(ii) to identify innovative solutions to challenges posed by existing eligible facilities, including reconnecting communities that—

(I) are bifurcated by eligible facilities; or

(II) lack safe, reliable, and affordable transportation choices.

(C) PRIORITIES.—In selecting recipients of technical assistance under subparagraph (A), the Secretary shall give priority to an application from—

(i) a community that is economically disadvantaged; or

(ii) a community that is at high risk for economic displacement.

(4) SELECTION.—The Secretary shall—

(A) solicit applications for—

(i) planning grants; and

(ii) technical assistance under paragraph (3); and

(B) evaluate applications for a planning grant on the basis of the demonstration by the applicant that—

(i) the eligible facility is aged and is likely to need replacement or significant reconstruction within the 20-year period beginning on the date of the submission of the application;

(ii) the eligible facility—

(I) creates barriers to mobility, access, or economic development; or

(II) is not justified by current and forecast future travel demand; and

(iii) on the basis of preliminary assessments into the feasibility of removing, retrofitting, mitigating, or remediating the eligible facility to restore community connectivity and increase safety, mobility, and access for all users, further planning activities are necessary and likely to be productive.

(5) AWARD AMOUNTS.—A planning grant may not exceed \$2,000,000 per recipient.

(6) FEDERAL SHARE.—The total Federal share of the cost of a planning activity for which a planning grant is used shall not exceed 80 percent.

(d) CAPITAL CONSTRUCTION GRANTS.—

(1) ELIGIBLE ENTITIES.—The Secretary may award a grant (referred to in this section as a “capital construction grant”) to the owner of an eligible facility to carry out an eligible project described in paragraph (3) for which all necessary feasibility studies and other planning activities have been completed.

(2) PARTNERSHIPS.—An owner of an eligible facility may, for the purposes of submitting an application for a capital construction grant, if applicable, partner with—

(A) a State;

(B) a unit of local government;

(C) a Tribal government;

(D) a metropolitan planning organization;

(E) a transit agency;

(F) a special purpose district with a transportation function;

(G) a territory;

(H) a nonprofit organization; or

(I) a group of entities described in this paragraph.

(3) ELIGIBLE PROJECTS.—A project eligible to be carried out with a capital construction grant includes—

(A) the removal, retrofit, mitigation, or remediation of the effects on community connectivity from an eligible facility, including a project to deck over a limited-access highway or other eligible facility;

(B) the replacement of an eligible facility with a new facility that—

(i) restores community connectivity;

(ii) employs context-sensitive solutions appropriate for the surrounding community; and

(iii) is otherwise eligible for funding under title 23, United States Code;

(C) support for community partnerships, including a community advisory board described under paragraph (7), in connection with a capital construction grant awarded under this subsection; and

(D) other activities required to remove, replace, retrofit, mitigate, or remediate an existing eligible facility, as determined by the Secretary.

(4) SELECTION.—The Secretary shall—

(A) solicit applications for capital construction grants; and

(B) evaluate applications on the basis of—

(i) the degree to which the project will improve mobility and access through the removal of barriers;

(ii) the appropriateness of removing, retrofitting, mitigating, or remediating the effects on community connectivity from the eligible facility, based on current traffic patterns and the ability of the project and the regional transportation network to absorb transportation demand and provide safe mobility and access;

(iii) the impact of the project on freight movement;

(iv) the results of a cost-benefit analysis of the project;

(v) the extent to which the applicant has plans for inclusive economic development in place, including the existing land use and whether the zoning provides for equitable and transit-oriented development of underutilized land;

(vi) the degree to which the eligible facility is out of context with the current or planned land use;

(vii) the results of any feasibility study completed for the project;

(viii) the plan of the applicant for—

(I) employing residents in the area impacted by the project through targeted hiring programs, in partnership with registered apprenticeship programs, if applicable; and

(II) encouraging community-based entrepreneurship and small business expansion;

(ix) whether the eligible facility is likely to need replacement or significant reconstruction within the 20-year period beginning on the date of the submission of the application;

(x) whether the project is consistent with the relevant long-range transportation plan and included in the relevant statewide transportation improvement program;

(xi) whether the project is consistent with, and how the project would impact, the relevant transportation performance management targets; and

(xii) the extent to which the project benefits populations impacted by or previously displaced by the eligible facility;

(C) ensure that the project has conducted sufficient community engagement, such as the activities described in subsection (c)(2)(B); and

(D) ensure that the jurisdiction in which the eligible facility is located has an anti-displacement policy or a community land trust in place.

(5) MINIMUM AWARD AMOUNTS.—A capital construction grant shall be in an amount not less than \$5,000,000 per recipient.

(6) FEDERAL SHARE.—

(A) IN GENERAL.—Subject to subparagraph (B), a capital construction grant may not exceed 50 percent of the total cost of the project for which the grant is awarded.

(B) MAXIMUM FEDERAL INVOLVEMENT.—Federal assistance other than a capital construction grant may be used to satisfy the non-Federal share of the cost of a project for which the grant is awarded, except that the total Federal assistance provided for a project for which the grant is awarded may not exceed 80 percent of the total cost of the project.

(7) COMMUNITY ADVISORY BOARD.—

(A) IN GENERAL.—To help achieve inclusive economic development benefits with respect to the project for which a grant is awarded, a grant recipient may form a community advisory board, which, if formed, shall—

(i) facilitate community engagement with respect to the project; and

(ii) track progress with respect to commitments of the grant recipient to inclusive employment, contracting, and economic development under the project.

(B) MEMBERSHIP.—If a grant recipient forms a community advisory board under subparagraph (A), the community advisory board shall be composed of representatives of—

(i) the community, including residents in the immediate vicinity of the project;

(ii) owners of businesses that serve the community;

(iii) labor organizations that represent workers that serve the community;

(iv) State and local government; and

(v) private and nonprofit organizations that represent local community development.

(C) DIVERSITY.—The community advisory board formed under subparagraph (A) shall be representative of the community served by the project.

(e) PRIORITIES.—In selecting recipients of planning grants, capital construction grants, and technical assistance under this section, the Secretary shall give priority to—

(1) an application from a community that is economically disadvantaged or high risk of displacement, including an environmental justice community, an underserved community, or a community located in an area of persistent poverty; and

(2) an eligible entity that has—

(A) entered into a community benefits agreement with representatives of the community or formed a community advisory board under paragraph (7) of subsection (d);

(B) demonstrated a plan for employing residents in the area impacted by the activity or project through targeted hiring programs; and

(C) demonstrated a plan for improving transportation system access.

(f) ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out this section, the Secretary may set aside not more than 2 percent for the costs of administering the program under this section.

(g) REPORTS.—

(1) USDOT REPORT ON PROGRAM.—Not later than January 1, 2026, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) evaluates the program under this section; and

(B) that—

(i) includes information about the level of applicant interest in planning grants, technical assistance under subsection (c)(3), and capital construction grants, including the extent to which overall demand exceeded available funds;

(ii) includes, for recipients of capital construction grants, the outcomes and impacts of the projects carried out with the grant, including—

(I) any changes in the overall level of mobility, congestion, access, and safety in the project area; and

(II) environmental impacts and economic development opportunities in the project area;

(iii) assesses projects funded under subsection (d) to provide best practices.

(2) GAO REPORT ON HIGHWAY REMOVALS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall issue a report that—

(A) identifies examples of projects to remove highways using Federal highway funds;

(B) evaluates the effect of highway removal projects on the surrounding area, including impacts to the local economy, congestion effects, safety outcomes, and impacts on the movement of freight and people;

(C) evaluates the existing Federal-aid program eligibility under title 23, United States Code, for highway removal projects;

(D) analyzes the costs and benefits of and barriers to removing underutilized highways that are nearing the end of their useful life compared to replacing or reconstructing the highway; and

(E) provides recommendations for integrating those assessments into transportation planning and decision-making processes.

(3) ELIGIBILITY GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish guidance describing the eligibility of funds apportioned under section 104(b) of title 23, United States Code, for activities eligible for assistance under this section.

(h) TECHNICAL ASSISTANCE.—Of the funds made available to carry out this section for planning grants, the Secretary may use not more than \$15,000,000 during the period of fiscal years 2022 through 2026 to provide technical assistance under subsection (c)(3).

SA 2177. Mr. COONS (for himself and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 2137 proposed by Mr. SCHUMER (for Ms. SINEMA (for herself, Mr. PORTMAN, Mr. MANCHIN, Mr. CASSIDY, Mrs. SHAHEEN, Ms. COLLINS, Mr. TESTER, Ms. MURKOWSKI, Mr. WARNER, and Mr. ROMNEY)) to the bill H.R. 3684, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —DRIVING FOR OPPORTUNITY

SEC. 01. SHORT TITLE.

This title may be cited as the “Driving for Opportunity Act of 2021”.

SEC. 02. FINDINGS.

Congress finds the following:

(1) Driving a vehicle is an essential aspect of the daily lives of most people in the United States.

(2) Driving is often required to access jobs and healthcare, take care of family, get groceries, and fulfill other basic responsibilities.

(3) In many small cities, towns, and rural areas that do not have public transportation and ridesharing alternatives, driving is often the only realistic means of transportation.

(4) Even in cities with public transportation and ridesharing options, individuals

vulnerable to infection during the COVID-19 pandemic and those complying with public health guidance regarding social distancing are increasingly reliant on driving as their primary means of transportation for essential travel.

(5) In the United States, millions of Americans have had their driver's licenses suspended for unpaid court fines and fees.

(6) A person whose driver's license is suspended or revoked for unpaid fines and fees will often find it more difficult to earn a living and therefore pay the debt owed to the government.

(7) The barrier to employment posed by driver's license suspensions and revocations for unpaid fines and fees is especially problematic during the COVID-19 pandemic, when the unemployment rate is the highest it has been since the Great Depression.

(8) Drunk and dangerous driving are some of the leading causes of death and serious bodily injury in the United States, and promoting safety on the roads is a legitimate, necessary, and core governmental function. Suspending a license for unsafe driving conduct presents different considerations than suspending a license for unpaid fines and fees. Suspending a license for unsafe driving is an appropriate tool to protect public safety. Policymakers also may consider alternatives to suspension of a license for unsafe driving such as ignition interlock device programs.

(9) According to the National Highway Traffic Safety Administration, every year on average, over 34,000 people are killed and 2,400,000 more people are injured in motor vehicle crashes. Some of the major causes of these crashes include speeding, impaired driving, and distracted driving. Nearly half of passenger vehicle occupants killed in crashes are unrestrained. The societal harm caused by motor vehicle crashes has been valued at \$836,000,000,000 annually. The enactment of, enforcement of, and education regarding traffic laws are key to addressing unsafe behavior and promoting public safety.

(10) However, most driver's license suspensions are not based on the need to protect public safety.

(11) In the State of Florida, 1,100,000 residents received a suspension notice for unpaid fines and fees in 2017 alone.

(12) Between 2010 and 2017, all but 3 States increased the amount of fines and fees for civil and criminal violations.

(13) In the United States, 40 percent of all driver's license suspensions are issued for conduct that was unrelated to driving.

(14) In 2015, the State of Washington calculated that State troopers spent 70,848 hours dealing with license suspensions for non-driving offenses.

(15) The American Association of Motor Vehicle Administrators estimated that arresting a person for driving with a suspended license can take 9 hours of an officer's time, including waiting for a tow truck, transporting an individual to jail, filling out paperwork, making a court appearance, and other administrative duties and accordingly Washington State Patrol Chief John Batiste called non-driving suspensions a “drain on the system as a whole”.

(16) The Colorado Department of Motor Vehicles determined that suspending driver's licenses for offenses unrelated to driving consumed 8,566 hours per year of staff time in the Department.

(17) Many States impose a significant fee for reinstating a suspended driver's license, such as Alabama, where the fee is \$275.

(18) Driving on a suspended license is one of the most common criminal charges in jurisdictions across the country.

(19) Seventy-five percent of those with suspended licenses report continuing to drive.